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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CANA FOUNDATION, a non-profit
corporation, LAURA LEIGH, individually, and
WILD HORSE EDUCATION, a nonprofit
corporation,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
INTERIOR, BUREAU OF LAND
MANAGEMENT, and JON RABY, Nevada
State Director of the Bureau of Land
Management,

Defendants.

CASE NO. 2:22-cv-01200-CDS-BNW

**PLAINTIFFS' SECOND NOTICE OF
MOTION AND MOTION FOR
JUDICIAL NOTICE IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' CROSS-MOTION
FOR SUMMARY JUDGMENT AND
REPLY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

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PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, Declaration of Jessica Blome, and exhibits attached thereto, together with all prior pleadings and proceedings had herein, Plaintiffs hereby move this Court and request that this Court take judicial notice of the following documents filed in *Animal Wellness Action v. BLM* (U.S. District Court for the District of Nevada, Case No. 3:22-cv-00034-MMD-CLB): (1) Plaintiffs' First Amended Complaint For Injunctive and Declaratory Relief, (2) Plaintiffs' Notice of Motion For Summary Judgment and Memorandum of Points and Authorities In Support Thereof, (3) Memorandum In Support of Federal Defendants' Cross-Motion For Summary Judgment and In Opposition to Plaintiffs' Motion For Summary Judgment; (4) Plaintiffs' Opposition to Defendants' Cross-Motion For Summary Judgment and Reply In Support of Plaintiffs' Motion For Summary Judgment; (5) Federal Defendants' Reply In Support of Their Cross-Motion For Summary Judgment; (6) February 22, 2024 Minute Order Requesting Supplemental Briefing; (7) Federal Defendants' Supplemental Response to Plaintiffs' Motion For Summary Judgment In Accordance With This Court's February 22, 2024 Order; (8) Plaintiffs' Supplemental Reply In Accordance With This Court's February 22, 2024 Order; (9) March 28, 2024 Opinion and Order Granting, in Part, Plaintiffs' Motion for Summary Judgment; and (10) Case Judgment.

This request for Judicial Notice is being filed concurrently with and in support of Plaintiffs' Opposition to Defendants' Cross-Motion for Summary Judgment and Reply in Support of Plaintiffs' Motion for Summary Judgment

DATED: April 12, 2024,

Respectfully Submitted,

s/ Jennifer Rae Lovko

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MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiffs move this Court to take judicial notice of the following documents filed in *Animal Wellness Action v. BLM* (U.S. District Court for the District of Nevada, Case No. 3:22-cv-00034-MMD-CLB): (1) Plaintiffs' First Amended Complaint For Injunctive and Declaratory Relief, attached as **Exhibit 1** to the accompanying Declaration of Jessica Blome; (2) Plaintiffs' Notice of Motion For Summary Judgment and Memorandum of Points and Authorities In Support Thereof, attached as **Exhibit 2** to the accompanying Declaration of Jessica Blome; (3) Memorandum In Support of Federal Defendants' Cross-Motion For Summary Judgment and In Opposition to Plaintiffs' Motion For Summary Judgment, attached as **Exhibit 3** to the accompanying Declaration of Jessica Blome; (4) Plaintiffs' Opposition to Defendants' Cross-Motion For Summary Judgment and Reply In Support of Plaintiffs' Motion For Summary Judgment, attached as **Exhibit 4** to the accompanying Declaration of Jessica Blome; (5) Federal Defendants' Reply In Support of Their Cross-Motion For Summary Judgment, attached as **Exhibit 5** to the accompanying Declaration of Jessica Blome; (6) February 22, 2024 Minute Order Requesting Supplemental Briefing, attached as **Exhibit 6** to the accompanying Declaration of Jessica Blome; (7) Federal Defendants' Supplemental Response to Plaintiffs' Motion For Summary Judgment In Accordance With This Court's February 22, 2024 Order, attached as **Exhibit 7** to the accompanying Declaration of Jessica Blome; (8) Plaintiffs' Supplemental Reply In Accordance With This Court's February 22, 2024 Order, attached as **Exhibit 8** to the accompanying Declaration of Jessica Blome; (9) March 28, 2024 Opinion and Order Granting, in Part, Plaintiffs' Motion for Summary Judgment, attached as **Exhibit 9** to the accompanying Declaration of Jessica Blome; and (10) Case Judgment, attached as **Exhibit 10** to the accompanying Declaration of Jessica Blome.

On March 28, 2024, the Court in *Animal Wellness Action v. BLM* issued an order that granted, in part, Plaintiffs' Motion for Summary Judgment, ruling that 43 C.F.R. §4710.3-1 creates a mandatory duty for BLM to create HMAPs, land use plans and gather plans cannot be used in lieu of HMAPs to fulfill Section 4710.3-1's HMAP preparation mandate, and BLM's

1 decades-long delay in preparing an HMAP for HMAs is unreasonable. *See* Exhibit 9 to the
 2 accompanying Declaration of Jessica Blome. Plaintiffs now seek issue preclusion based upon
 3 this order, and judicial notice of the complaint and relevant briefs is sought for the purpose of
 4 allowing this Court to rule on issue preclusion.

5 Court orders are public records and their contents are both easily verified and not subject
 6 to reasonable dispute, and as such, they may be considered for judicial notice pursuant to Rule
 7 201. *See* Fed. R. Evid. 201(b)(2). Further, courts may take judicial notice of court opinions and
 8 briefs for the purpose of ruling on issue preclusion. *See* Holder v. Holder, 305 F.3d 854, 866 (9th
 9 Cir. 2002); *see also* St. Louis Baptist Temple, Inc. v. Fed. Deposit Ins. Corp., 605 F.2d 1169,
 10 1172 (10th Cir. 1979) (courts can “take notice of proceedings in other courts, both within and
 11 without the federal judicial system, if those proceedings have a direct relation to matters at
 12 issue); *Chandler v. O'Bryan*, 311 F. Supp. 1121, 1123 (W.D. Okla. 1969) (judicial notice of
 13 court records appropriate where case involved the same parties and concerned matters relevant to
 14 and leading to the issues involved in the present case).

15 For these reasons, Plaintiffs respectfully request this Court to take judicial notice of the
 16 Order attached to the declaration accompanying this motion.

17 DATED: April 12, 2024,

Respectfully Submitted,

18 /s/ Jennifer Rae Lovko

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